

## **PROPOSED REGULATION OF THE NEVADA STATE ENVIRONMENTAL COMMISSION**

EXPLANATION - Matter in italics is new; matter in brackets [ ] is to be omitted.

Authority: NRS 459.485, 459.490 and 459.500

**Section 1.** NAC 444.8427 is hereby amended to read as follows:

**444.8427 "Facility for community recycling" defined.** "Facility for community recycling" means a facility for recycling hazardous waste which has a yearly capacity that is not more than twice the amount of the type of hazardous waste proposed to be recycled that is generated within the region in this state in which the facility is or is proposed to be located, as determined by the generation rate contained in the biennial report required by the provisions of 40 C.F.R. § 262.41, as that section existed on July 1, 2001 [2000].

**Section 2.** NAC 444.84275 is hereby amended to read as follows:

**444.84275 "Facility for community storage" defined.** "Facility for community storage" means a facility for the storage and consolidation of hazardous waste which has a yearly capacity that is not more than twice the amount of hazardous waste that is generated within the county in which the facility is or is proposed to be located, as determined by the generation rate contained in the biennial report required by the provisions of 40 C.F.R. § 262.41, as that section existed on July 1, 2001 [2000].

**Section 3.** NAC 444.850 is hereby amended to read as follows:

**444.850 Definitions.** As used in NAC 444.850 to 444.8746, inclusive, unless the context otherwise requires:

1. The words and terms defined in NAC 444.8505 to 444.861, inclusive, have the meanings ascribed to them in those sections.
2. Except for the words and terms otherwise defined in NAC 444.8505 to 444.861, inclusive, the words and terms defined in 40 C.F.R. § 260.10, as that section existed on July 1, 2001 [2000], have the meanings ascribed to them in that section.

**Section 4.** NAC 444.8632 is hereby amended to read as follows:

**444.8632 Compliance with federal regulations adopted by reference.**

1. In addition to the requirements of NAC 444.850 to 444.8746, inclusive, a person who generates, transports, treats, stores, disposes or otherwise manages hazardous waste or used oil shall comply with all applicable requirements of, and may rely upon applicable exclusions or exemptions under 40 C.F.R. Part 2, Subpart A, Part 124, Subparts A and B, Parts 260 to 270, inclusive, and Parts 273 and 279, as those provisions existed on July 1, 2001 [2000], which, except as otherwise modified by NAC 444.86325, 444.8633 and 444.8634, are hereby adopted by reference. The state environmental commission may use federal statutes and regulations that are cited in 40 C.F.R. Part 2, Subpart A, Part 124, Subparts A and B, Parts 260 to 270, inclusive, and Parts 273 and 279, to interpret these sections and parts.

2. The volumes containing these parts may be obtained from the Superintendent of Documents, P.O. Box 371954, Pittsburgh PA 15250, for the following prices:

- (a) Volume 40 C.F.R. Part 2..... \$37 [37]
- (b) Volume 40 C.F.R. Part 124 ..... 66 [66]
- (c) Volume 40 C.F.R. Parts 260 to 265, inclusive..... 36 [32]
- (d) Volume 40 C.F.R. Parts 266 to 299, inclusive..... 35 [33]

**Section 5.** NAC 444.86325 is hereby amended to read as follows:

**444.86325 Exceptions to and revision of federal regulations adopted by reference.**

1. The following sections and parts of Title 40 of the Code of Federal Regulations, and any reference to these sections and parts, are not adopted by reference:

- (a) Sections 2.106(b) and 2.110;
- (b) Sections 124.1(b)-(e), 124.4, 124.5(e), 124.9, 124.10(a)(1)(iv), 124.12(e), 124.14(d), 124.15(b)(2), 124.16, 124.17(b), 124.18, 124.19 and 124.21;
- (c) Sections 260.1(b)(4)-(6) and 260.20, 260.21 and 260.22;
- (d) Section 261.5(j);
- (e) Part 262, Subpart H;
- (f) Sections 264.1(d), 264.1(f), 264.149, 264.150, 264.301(1), 265.1(c)(4), 265.149, 265.150 and 265.430;
- (g) Section 266.111;
- (h) Sections 268.5 and 268.6, Part 268, Subpart B, and sections 268.42(b) and 268.44;
- (i) Sections 270.1(c)(1)(i), 270.60(b) and 270.64; and
- (j) Sections 279.10(b)(2), 279.10(b)(3), 279.10(c), 279.10(d)(1), 279.42(b)(2), 279.51(b)(2), 279.62(b)(2) and 279.73(b)(2).

2. The following parts and sections of Title 40 of the Code of Federal Regulations are adopted by reference, as revised in this subsection:

- (a) Part 124 is adopted with the following exceptions:
  - (1) Delete all references to appeals to the Administrator in section 124.5(b);
  - (2) Delete all references to "EPA-issued permits" and insert in its place "permits issued by the department," except in sections 124.5(d), 124.10(b) and 124.10(d)(1)(vi);
  - (3) Delete all references to "when EPA is the permitting issuing authority" and insert in its place "when the department is authorized to issue a permit," except in sections 124.5(d), 124.10(b) and 124.10(d)(1)(vi);
  - (4) Subpart A is adopted solely for the purpose of establishing procedures for permits for the management of hazardous waste, except that all references to "UIC," "PSD" and "NPDES" are deleted;
  - (5) Delete all references to "RCRA part B," "part B RCRA" and "part B" and insert in their place "NRS 459.400 to 459.600, inclusive," in sections 124.31 and 124.32; and
  - (6) Delete from sections 124.31(a), 124.32(a) and 124.33(a) the following sentence: "For the purposes of this section only, 'hazardous waste management units over which EPA has permit issuance authority' refers to hazardous waste management units for which the State where the units are located has not been authorized to issue RCRA permits pursuant to 40 CFR part 271."
- (b) Section 260.2(a) is adopted except that "the Freedom of Information Act, 5 U.S.C. section 552, section 3007(b) of RCRA and EPA regulations implementing the Freedom of Information Act and section 3007(b)" must be replaced with "NRS 459.555 and any regulations adopted pursuant thereto."
- (c) Section 260.33(b) is adopted except that "in the locality where the recycler is located" is deleted.
- (d) Section 260.41(a) is adopted except that "or unless review by the Administrator is requested. The order may be appealed to the Administrator by any person who participated in the public hearing. The Administrator may choose to grant or to deny the appeal" is deleted.
- (e) Section 261.2(c)(3) is adopted except that "(except as provided under 40 CFR 261.4(a) 17)" is deleted from the second sentence.
- (f) [(e)] Section 261.4(e)(3)(iii) is adopted except that "in the Region where the sample is

collected" is deleted.

(g) [(f)] Section 262.11(c)(1) is adopted except that ", or according to an equivalent method approved by the Administrator under 40 C.F.R. Part 260.21" is deleted.

(h) [(g)] Sections 262.42(a)(2) and 262.42(b) are adopted except that "for the Region in which the generator is located" is deleted.

(i) [(h)] Sections 264.18(c) and 265.18 are adopted except that "except for the Department of Energy Waste Isolation Pilot Project in New Mexico" is deleted.

(j) [(i)] Sections 264.143(h), 264.145(h), 265.143(g) and 265.145(g) are adopted except that "If the facilities covered by the mechanism are in more than one Region, identical evidence of financial assurance must be submitted to and maintained with the Regional Administrators of all such Regions" is deleted.

(k) [(j)] Sections 264.147(a)(1)(i), 264.147(b)(1)(i) and 265.147(a)(1)(i) are adopted except that "or Regional Administrators if the facilities are located in more than one Region" is deleted.

(l) [(k)] Section 264.151 is adopted with the following exceptions:

(1) Delete all references to "(of/for) the Regions in which the facilities are located";

and

(2) Delete "an agency of the United States Government" from the second paragraph of the trust agreement.

(m) [(l)] Part 270 is adopted except that all references to "interim authorization" are deleted.

(n) [(m)] Section 279.40(c) is adopted except that "unless, under the provisions of § 279.10(b), the hazardous waste/used oil mixture is determined not to be hazardous waste" is deleted.

(Added to NAC by Environmental Comm'n, eff. 1-2-92; A 10-29-93; 3-1-94; R202-97, 3-5-98)

**Section 6.** NAC 444.9452 is hereby amended to read as follows:

**444.9452 Adoption by reference of provisions of Code of Federal Regulations.**

1. All sections, subparts and parts of Title 40 of the Code of Federal Regulations referred to in NAC 444.940 to 444.9555, inclusive, as modified by NAC 444.9453, are hereby adopted by reference as they existed on July 1, 2001 [2000].

2. The volumes containing these sections, subparts and parts may be obtained from the Superintendent of Documents, United States Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250, for the following prices:

(a) The volume containing 40 C.F.R. Parts 260 to 265, inclusive.....\$36 [32]

(b) The volume containing 40 C.F.R. Parts 266 to 299, inclusive. ....35 [33]

(c) The volume containing 40 C.F.R. Part 761 .....46 [42]